

**REMARKS/ARGUMENTS**

Reconsideration of this application is requested. Claims 13-20, 31-36 and 39 are in the case.

**I. INTERVIEWS**

At the outset, the undersigned wishes to thank the Examiner (Ms. Williams) for kindly agreeing to discussing this case over the telephone. The Examiner proposed certain claim language which is now presented in the claims herewith, and which is believed to distinguish the claimed invention from both novelty and patentability standpoints over the cited British Patent 2061372 to Shorey et al. The present submission is accompanied by a Request for Continuing Examination (RCE). Entry and favorable consideration of the claims presented herewith are accordingly respectfully requested.

**II. THE ANTICIPATION REJECTION**

Claims 13-18, 31-36 and 38 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Shorey et al (GB '372). That rejection is respectfully traversed.

As claimed, the invention is directed to a fastener in combination with a tube for securing the tube to a patient. The fastener comprises a tubular sleeve of variable length configured when lengthened to grip the tube. The tube has a lumen and is adapted to transport fluid to or from a patient.

Shorey does not anticipate the invention as now claimed. Shorey is directed to "cable grips" (page 1 line 3), which can be used "indoors or outdoors on any suitable

structure such as a building or pole, down an excavation, in a mine shaft and elsewhere" (page 1, lines 26-29). Shorey has nothing whatsoever to do with tubes which are connected to patients. By reciting the presence of a tube with a lumen in the amended claims, it is clear that Shorey is no longer anticipatory. Reconsideration and withdrawal of the outstanding anticipation rejection based on that reference are accordingly respectfully requested.

### **III. THE OBVIOUSNESS REJECTION**

Claims 37-39 and 43 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Shorey. That rejection is respectfully traversed.

It is clear from the discussion above that one of ordinary skill would not have been motivated to arrive at the presently claimed invention based on Shorey. Skilled persons seeking to provide a device for securing medical tubes with a lumen to a patient would not have knowledge of the field of cable grips and would not have been motivated to rely on Shorey for a solution. Even if one of ordinary skill would have been motivated to consult Shorey (it is believed that that would not have been the case), there is no suggestion in Shorey that cable grip devices could be adapted to make them useful as fasteners for securing medical tubes to patients. Shorey does not disclose any type of medical application. Rather, Shorey relates to heavy-duty cable grip devices that would be viewed by one of ordinary skill as clearly unsuitable for securing a medical tube with a lumen to a patient. In light of this, one of ordinary skill would not have been motivated to utilize a device such as that disclosed in Shorey in the context of the present invention.

Absent any motivation to resort to Shorey, it is clear that Shorey does not give rise to a *prima facie* case of obviousness. Withdrawal of the outstanding obviousness rejection is accordingly respectfully requested.

**IV. ALLOWABLE SUBJECT MATTER**

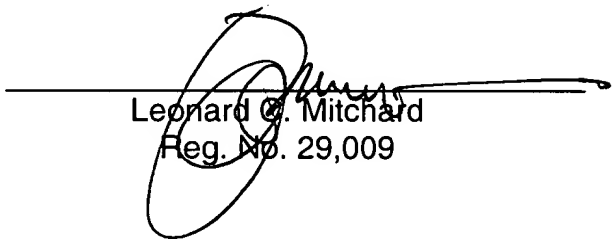
It is noted, with appreciation, that claims 19 and 20 are directed to allowable subject matter. With the amendments and arguments presented herein, it is believed that all of the claims in this application are now in allowable condition. Early notice to that effect is respectfully requested.

Favorable action in this application is awaited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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